



## **FIX FORFEITURE**

[www.fixforfeiture.org](http://www.fixforfeiture.org)

### **Civil Asset Forfeiture: “Guilty Until Proven Innocent”**

In states across the country, the concept of “innocent until proven guilty” is being flipped on its head. Civil asset forfeiture is a mechanism through which the government can seize the property of individuals who are never even charged with a crime. In many states, the owner must endure a long and expensive legal battle to prove the seized property “innocent” in order to recover it. And the vast majority of people who find themselves in these situations do not know where to turn for help or have the resources to get it. In many states, the government entity that seizes the property has no reporting requirements, which means there is no transparency or accountability. At the federal level, we do know that 80% of those individuals from whom the government seized funds or property were never charged with a crime. Over 60,000 cash seizures since 2001 were made without search warrants or indictments, totaling more than \$2.5 billion.

### **Fix Forfeiture**

Fix Forfeiture is a 501(c)(4) organization that will work at both the state and federal level to reform deficient civil asset forfeiture laws by developing and implementing state-specific campaign strategies to raise awareness about civil asset forfeiture abuse and advocate for the strongest possible reforms.

### **Fix Forfeiture’s Policy Goals**

Fix Forfeiture will support state and federal legislation to reform civil asset forfeiture procedures. The organization will focus its efforts on five key policy goals:

- Ensuring that no individual can have property forfeited without first being convicted of a crime.
- Eliminating conflicts of interest created when the government agency responsible for an asset forfeiture retains those assets.
- Adding due process protections for the individual involved in an asset forfeiture.
- Establishing reporting requirements for government agencies that seize property.
- Exempting certain property from civil asset forfeiture laws that would create undue hardships for the property owner, such as a homestead or a vehicle.

### **Goals Meeting Strategies**

Fix Forfeiture will be the first action organization in the country to organize progressive and conservative partner assets, invite law enforcement collaboration, and employ state-specific lobbying, public advocacy, education, and earned media efforts to pass sweeping civil asset forfeiture reforms. Fix Forfeiture will collaborate with the partner organizations on grassroots activity, coordinate with stakeholders on research and data, and amplify the voices of supportive community leaders and elected officials.

- American Civil Liberties Union
- Americans for Tax Reform
- Center for American Progress
- FreedomWorks
- Faith and Freedom Coalition
- The Leadership Conference Education Fund
- Right on Crime



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[www.fixforfeiture.org](http://www.fixforfeiture.org)

FOR IMMEDIATE RELEASE

July 30, 2015

CONTACT: [press@fixforfeiture.org](mailto:press@fixforfeiture.org)

### **Fix Forfeiture Applauds Michigan Association of Police Organizations' (MAPO) Endorsement of House Civil Asset Forfeiture Package**

#### ***MAPO Is A Constructive Voice in Improving the State's Criminal Justice System***

***\*\*See MAPO's Letter of Endorsement Below\*\****

**Lansing, MI** – Today, Fix Forfeiture, a bipartisan organization working to reform civil asset forfeiture laws, praised the Michigan Association of Police Organizations' (MAPO) endorsement of civil asset forfeiture reform bills, which overwhelmingly passed the Michigan House of Representatives in June. Fix Forfeiture knows that law enforcement is an important voice in this discussion and MAPO, which represents more than 10,000 law enforcement officers across the state, reflects an organization that understands the need to constructively engage in efforts to improve the state's criminal justice system.

"Today, we welcome an important ally to the effort to reform civil asset forfeiture laws in Michigan. Fix Forfeiture applauds the MAPO endorsement of the reform bills moving through the state legislature," **said Holly Harris, executive director of Fix Forfeiture.** "This well respected law enforcement organization understands that in a democracy, there is always a need to improve aspects of our criminal justice system and is supportive of this approach to improve transparency. We are encouraged by their public support and are grateful for their service to the people of Michigan. We will continue to reach out to law enforcement across the state to work hand-in-hand with them to pass reform."

MAPO Letter of Endorsement

*July 30, 2015*

*Senate Majority Leader Arlan Meekhof  
State Capitol Building  
Lansing, MI 48909*

*Dear Senator Meekhof:*

*We are writing on behalf of the more than 10,000 certified law enforcement officers that make up the membership of the Michigan Association of Police Organizations (MAPO).*

*MAPO supports passage of the Uniform Forfeiture Reporting Act and the Civil Asset Forfeiture revisions that are part of House Bills 4499-4500 and House Bills 4503-4508.*

*Law enforcement works best when working in partnership with the communities being served. Any enforcement activities viewed as "policing for profit" do unnecessary damage to that important relationship.*

*When done properly, forfeiture is an extremely valuable tool for law enforcement to attack illegal behavior and create safer communities.*

*While we caution lawmakers against making policy on any issue because of a few anecdotes that represent "outlier" behavior, this package of bills is a reasonable, measured approach to improving transparency in forfeiture activities and diminishes the "policing for profit" perception that has attached to this issue.*

*Please add our organization to the list of those supporting this legislative effort.*

*Thank you for your time and consideration.*

*Sincerely,*

*Richard Weiler, President  
Michael Sauger, Vice President*

*###*

**About Fix Forfeiture**

**Fix Forfeiture** is the first action organization in the country to bring together progressive and conservative partners, collaborate with law enforcement, and employ state-specific lobbying, public advocacy, and public education efforts to pass sweeping civil asset forfeiture reforms. Fix Forfeiture's partner organizations include Americans for Tax Reform, American Civil Liberties Union (ACLU), the Center for American Progress, the Faith & Freedom Coalition, FreedomWorks, the Leadership Conference on Civil and Human Rights, and Right on Crime.



## **FIX FORFEITURE**

### **Michigan Civil Asset Forfeiture Clips**

Forfeiture reform gains momentum

Editorial Board/The Detroit News

August 8, 2015

Contested forfeiture cases on the rise in Kent County

John Hogan/WWZM13

August 7, 2015

Michigan Police Endorse Civil Asset Forfeiture Reform

Casey Harper/Daily Caller

Jul 31, 2015

Detroit police seize woman's car and cash without ever accusing her of a crime

Ross Jones/WXYZ-TV

July 8, 2015

Cops Seize College Kid's Savings for No Reason: 5 Outrageous Cases of Asset Forfeiture

Zaid Jilani/AlterNet

July 1, 2015

National group throws weight behind effort to fix Michigan civil asset forfeiture laws

Jonathan Oosting/MLive.com

June 25, 2015

Why armed drug cops took 'every belonging' from a Michigan soccer mom

Christopher Ingraham /The Washington Post

June 13, 2015

State lawmakers consider changes in forfeiture laws

L.L. Braiser/Detroit Free Press

May 19, 2015

Crime fighting or questionable raids? A look at MI's asset forfeiture ...

Josh Sidorowicz/Fox 17

February 25, 2015

Police seize property and cash in questionable raids

L.L. Braiser/Detroit Free Press

February 23, 2015



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### **Forfeiture reform gains momentum**

**Editorial Board/The Detroit News**

**August 8, 2015**

Michigan's efforts to control law enforcement's civil asset forfeiture is garnering nationwide attention. The House has approved a package of bills aimed at setting stricter rules for police when they seize property believed involved in criminal activity, even if charges never are filed.

The legislation has caught the eye of a newly formed coalition, Fix Forfeiture, which is working to change federal and state laws allowing the practice. The new coalition consists of conservative and progressive groups and has made Michigan one of three states it will target this year for reform. The other two are Ohio and Pennsylvania.

Under the House legislation, officers must have "clear and convincing evidence" that personal property was part of a criminal enterprise before it can be taken. Current law allows forfeiture if there's "a preponderance" of evidence.

The bills are a good start and should be approved by the Senate, but they don't go far enough to protect citizens. If civil forfeiture is allowed to continue, the guiding principle should be that no property is taken without a criminal conviction, which also is the coalition's goal.

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### **Contested forfeiture cases on the rise in Kent County**

**John Hogan/WWZM13**

**August 7, 2015**

GRAND RAPIDS, Mich. (WZZM) – Money and property won in contested civil forfeiture cases in Kent County last year topped \$106,500, an increase of nearly 26 percent from 2013.

Scores of uncontested cases – including some without prosecution, netted Kent County police agencies hundreds of thousands of dollars; the fruits of Michigan forfeiture laws designed to take the profitability out of drug dealing.

Among those targeted was Judy Vandam. The Kent Area Narcotics Enforcement Team in January raided her medical marijuana certification business in Comstock Park and her home in Marne.

"They came into my business yelling and screaming, I had a gun pointed at me," said Vandam, owner of Grand Rapids Alternative Care on West River Drive NE just a short distance from Fifth-Third Ballpark. "It was totally unnecessary."



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She opened the business five years ago to help qualifying patients get certified to use medical marijuana. Michigan's Medical Marijuana Act was passed by voters in 2008.

"They took every piece of office equipment in here, they took every bit of money out of my purse," she said. "They took my cards for my banks. They try to make it to the point where you're desolate."

Her vehicle was taken as well as a riding mower at her home in Marne. "A lawn mower? When I got it back, there was no gas and it had been used," she fumed. "They try to make you so desolate that you can't come back after any of your property because you have no money; you have no way to do anything so you can't pay bills - you can't do anything."

Vandam said she lost thousands of dollars by the time the case was resolved.

"I just wanted my property back," she said from the office of her certification business. "They didn't even file charges at first – it took them 56 days. And I knew eventually that they would because I wasn't just going to give them my stuff and just back off. It was my stuff, I worked my butt off for it for years."

Vandam and scores like her have had assets seized during raids of marijuana growers, caregivers and dispensaries in Kent County. Two other sites on West River Drive NE were raided by police, including a large growing operation in the 5200 block of West River Drive and a home a few blocks away where officers seized nearly two pounds of marijuana, heroin and more than \$5,000 in cash.

The marijuana was eventually destroyed, but the seized cash and assorted property became the property of police, even before criminal charges were filed.

Seizures were made under Michigan's Asset Forfeiture Law. The Kent County Prosecutor's Office last year filed 30 civil forfeiture claims against property it says was either used to promote drug trafficking or represents the ill-gotten gains of trafficking. In 2013, it handled 26 contested cases; less than a dozen have been filed so far this year.

"You get a lot of vehicles, you get a lot of money and now people use iPhones and computers," said Kent County Assistant Prosecutor Greg Boer. "We've also been getting a lot of marijuana growing equipment."

Those who have property seized have 20 days to post an interim bond – usually between \$250 and \$500, to contest the seizure. If a bond is not posted within 20 days, the property automatically becomes property of the seizing police agency.

When a bond is posted, the prosecutor's office – acting on behalf of the seizing police agency, will determine if it's worth pursuing.



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"If it doesn't meet the statutory requirements, we'll return the property right there," Boer said. "If we feel it does meet the criteria we proceed one of two ways: We reach an out-of-court settlement or we try the case."

Boer says between 15 and 20 percent of forfeiture cases wind up in court.

Forfeiture laws in Michigan and in other states may be changing, however. An Ann Arbor democrat introduced legislation this year that prevents property from being seized unless there is a conviction. It is part of an 8-bill package that cleared the House in June. The Michigan Senate is expected to take up the package when it returns from summer break.

Boer says even if lawmakers pass restrictions, he doubts it will have much impact on local cases.

"Most of the cases we file involve people who do ultimately get convicted, so that would not have a significant change from my perspective," Boer said. "When we deal with people that don't have criminal charges, that's when they're usually acting as a stooge for someone who does have criminal charges."

State and federal forfeiture laws were enacted as part of the national War on Drugs – a way to remove the profits from drug trafficking. It helps pay for training, drug-sniffing dogs and undercover informants. Lights used to grow pot and scales used to weigh cocaine go to elementary schools.

More than \$24 million in assets were seized statewide in 2013, down slightly from the year before. The 2012 haul included 23 houses.

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### **Michigan Police Endorse Civil Asset Forfeiture Reform**

**Casey Harper/Daily Caller**

**Jul 31, 2015**

The Michigan Association of Police Organizations has endorsed a series of civil asset forfeiture reform bills that have been met with hostility in other states, a good sign the bills have a chance of becoming law and reforming the highly criticized practiced.

A package of eight bills were passed by the Michigan House earlier this year to reform civil asset forfeiture, the process by which police can seize someone's property and keep it even if they don't convict or charge you with a crime. Then, that person must go through the difficult, and often unsuccessful process to get their property—whether it's a vehicle, cash or a home—back from the police.

"While we caution lawmakers against making policy on any issue because of a few anecdotes that represent "outlier" behavior, this package of bills is a reasonable, measured approach to improving transparency in forfeiture activities and diminishes the "policing for profit"



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perception that has attached to this issue," MAPO wrote in a letter announcing the endorsement.

A key part of the reform effort is missing from this legislative effort, and that may be why police are supporting it. The legislation does not change the law to require a conviction before property can be forfeited.

Also, and most importantly, police are still allowed to use the proceeds from forfeited property to pad their own budgets. Reforms in other states, like New Mexico, have taken that money and put it in the state's general fund.

This failure significantly weakens the legislation, but the other provisions are what Fix Forfeiture Executive Director Holly Harris says is a "first step" on the road to reform.

This first step would raise the burden of proof for police to forfeit property, protect lesser offenders like those holding small amounts of marijuana, and would start a system where police must track and report their forfeitures.

Harris told The Daily Caller News Foundation that the reporting of data will expose how widespread the problem is, which will set up another round of tougher reforms.

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### **Detroit police seize woman's car and cash without ever accusing her of a crime**

**Ross Jones/WXYZ-TV**

**July 8, 2015**

DETROIT (WXYZ) - Salina Ratliff didn't do anything wrong on a night more than seven months ago. Not according to police or prosecutors, who never charged her with a crime. But just because she wasn't a criminal didn't mean she couldn't be treated like one. "I was just scared," she told Channel 7's Ross Jones, "Like, what did I do?"

Ratliff's troubles started on November 12, 2014. The 22-year-old with no criminal record had dropped off her niece to have her hair done. To help pass time, she met up with a friend at a nearby home. She didn't know the owner well and planned to stay for just a few minutes.

"We had been there maybe 15, 20 minutes. I was getting ready to leave and I just heard yelling at the door," she recalled. "And I was just scared, I didn't know what was going on."

She soon learned that Detroit police were executing a drug raid. After they kicked in the door, cops lined up everyone inside.

"So they had guns pointed at you?" asked Jones.



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"Yes, and we had to lay face down on the ground," she said. "All my stuff was thrown all over the living room, my glasses were broke, they broke them in half."

Police did find marijuana in the house, but none that was tied to Salina or her friend. Cops left without charging them with anything, but they didn't leave empty handed.

Detroit police seized Ratliff's 2011 Kia Soul and about \$30 found in her purse. They could do it thanks to Michigan's asset forfeiture laws, which allow cops to seize money and property that they suspect is related to drug crimes.

Cops told Ratliff that if she wanted to fight the forfeiture, she needed to fork over \$720 in bond, money she had to borrow from her mom. Without it, cops could auction her car off and keep the proceeds. Last year alone, police throughout Michigan reported seizing more than \$24 million in cash and property from people suspected of criminal activity.

"So you don't have a car, you don't have \$720," Jones said. "What do you do next?"

"Keep paying the car note," Ratliff replied. "I thought there was a chance that I'd get the car back, so I kept paying the note every month on time."  
She hasn't seen her car since November.

State Rep. Jeff Irwin (D-Ann Arbor) says that examples like Ratliff are clear evidence that state forfeiture laws need to be changed.

"Unfortunately, this one element of law has been turned on its head, and we're trying to rectify it," Irwin said.

Since our first story aired back in May, the House Judiciary Committee heard testimony from other victims of what Irwin calls forfeiture abuse, including Ginnifer Hency.

After a diagnosis of multiple sclerosis, her neurologist suggested she use medical marijuana to manage her symptoms. Last July, cops raided her home, suspecting her of drug trafficking.

"They have had my stuff for 10 months," Hency said. "My ladders, my iPads, my children's iPads, my children's phones."

A judge quickly dismissed the charges, but Hency's problems were far from over.

"I went to the prosecutor's office Friday morning and said, 'How do I go about getting my stuff back?' The prosecutor came out and said, 'I can still beat you in civil court. I can still take your stuff.' "

After hearing Hency's testimony, the House overwhelmingly voted through a group of bills that would raise the standard of proof



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needed to forfeit someone's property and require departments to keep track of forfeitures and report them to state police. But if changes do come, they won't be for many months.

Meanwhile, Salina Ratliff has been without her car for nearly eight months. Today, it sits at a police impound lot just a few miles from her house. So close, and yet so far.

"I've always had a job, I've always gone to school. I've always done everything the right way for the most part," she said. "Why did this happen to me?"

Today, Ratliff was told by the Wayne County Prosecutor's office that, if she wants her car back, she'll need to pay \$900 to their office and about \$1,100 to Detroit Police for vehicle storage fees. Ratliff says she doesn't have that money and hopes she can find a lawyer who will take on her case pro bono.

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### **Cops Seize College Kid's Savings for No Reason: 5 Outrageous Cases of Asset Forfeiture**

**Zaid Jilani/AlterNet**

**July 1, 2015**

Asset forfeiture is a police procedure whereby local police departments can confiscate the property of Americans if they can make a case that the property is essential to criminal activity. You would think such power would be limited to items such as firearms or other dangerous materials, but police departments often abuse this power to grab all sorts of things — even from people who are never charged with a crime. Here are five crazy cases.

1. Seizing the Life Savings Of a 24-Year-Old: In 2014, a college student named Charles Clarke was traveling through Cincinnati/Northern Kentucky airport when he was accused of having his bag smell like marijuana. Police then went on to seize the \$11,000 found within it, accusing him of having done a drug deal to get the money. 13 different departments are now trying to gain control of the money seized from Clarke, although he was never convicted of a crime (there were no drugs in his bag).

2. Confiscating \$75,000 From A Budding Restaurateur: A 55-year old Chinese American from Georgia was traveling in Alabama when police seized \$75,000 he had raised from his relatives to open a new Chinese restaurant. After ten months of legal battles, he was able to get the money back, but he was set back by his own legal fees.

3. Taking Everything From A Cancer Patient: Police in Michigan busted into Thomas Williams' home, accusing him of dealing marijuana -- he wasn't, but as a cancer patient, he was legally allowed to cultivate his own. Police took \$11,000, his car, his shotgun, and other belongings and a year later he was still fighting to get them back.

4. Snatch And Grab From Poker Players: Two poker players driving in Iowa had \$100,000 taken from them by Iowa police. The encounter with police led to one indictment for possessing



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drug paraphernalia. There was no hard and fast evidence that the money seized was at all related to any drug crime.

5. Decimating A Nail Salon Owner's Life Savings: Vu Do, a man who owns two nail salons in New York City, had \$44,000, his life savings, taken from him by the Drug Enforcement Agency while he was at JFK Airport. He had planned to take the money to California to help his family. He didn't receive even a citation before having his money taken from him, which makes the government's case that he may have been drug dealing all the more bizarre.

Abuses have become common enough to where two states have banned civil asset forfeiture altogether while the federal government has started to limit its own use of the procedure.

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### **National group throws weight behind effort to fix Michigan civil asset forfeiture laws**

**Jonathan Oosting/MLive.com**

**June 25, 2015**

LANSING, MI — Darlene Hellenberg was on the dance floor when masked gunmen stormed the Contemporary Art Institute of Detroit, ordering her and other patrons to the ground.

"What's going to happen to me? And where am I going to end up when this is all over?" she said this week, recalling the panicked thoughts that raced through her head back in 2008.

"I don't even think at that point I knew it was police. I had no idea what was happening."

Hellenberg was one of 130 people detained, searched and charged with loitering after non-uniformed police officers raided the art space that night. She was one of 44 people who had their cars impounded.

Her alleged crime? The 26-year-old library assistant was at "Funk Night," a monthly dance party where, unbeknownst to her, organizers were serving alcohol without a liquor license and after 2 a.m.

"It didn't even occur to me that I was in a place where I was doing anything wrong, other than hanging out and dancing," said Hellenberg, who was there to see her DJ friend spin records.

The loitering charge was later dismissed, but it took Hellenberg 10 months to win back her car. Police originally said she could pay \$900, plus towing and storage fees, to get it out of lockup. She eventually paid \$400 and agreed to do some community service.

Seven years later, the now-infamous "CAID raid" remains a startling example of abuse under Michigan's civil asset forfeiture laws, which allow police to seize property linked to an alleged crime even if the owner is never charged or convicted.



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The raid, and other stories like it, have inspired a growing movement to reform those laws, an effort that is about to ramp up in Michigan over the next several months as the state Senate considers a package already approved by the House.

Fix Forfeiture, a newly formed coalition of high-profile conservative and progressive organizations active on criminal justice issues, is making Michigan one of three states it will target this year as part of a national push.

The "unlikely partners" have combined forces to support an issue that "cuts to the very heart of what we stand for in America," said Holly Harris, senior project director for the new coalition. "Innocent until proven guilty is the core of our criminal justice system."

Michigan is one in a growing number of states considering forfeiture reform, and U.S. Attorney General Eric Holder announced new federal limits in March.

"We now know the stories of abuse, and they're just not defensible," said Harris. "Our goal with this organization is to ensure those situations never happen again."

Fix Forfeiture, which will educate and lobby lawmakers in coming months, plans to formally announce its Michigan effort on Thursday in a press call that will include state Rep. Klint Kesto, R-Commerce Twp., who chairs the House Judiciary Committee and sponsored legislation to increase forfeiture transparency.

An eight-bill package, approved this month in the state House with bipartisan support, would require new forfeiture reporting by law enforcement agencies, increase the burden of proof required to keep seized property and prohibit police from impounding a vehicle used to purchase less than 1 ounce of marijuana for personal use.

Michigan police agencies reported \$24.3 million in civil asset forfeitures in 2013, according to the Michigan State Police, but those figures only include drug-specific cases, and eight percent of agencies never filed a report.

Police departments across the state can sell or auction seized property to supplement their budgets, which creates "a perverse incentive for them to keep doing it," according to Jason Pye of FreedomWorks, a tea party group that is part of the new coalition.

The Michigan House bills don't go as far as reforms recently enacted in New Mexico, which now requires a conviction for any forfeiture, but supporters say they are a significant step in the right direction.

"We want to see this package move forward out of the state Senate as well," said Pye. "We have 6.9 million liberty loving activists that we plan to mobilize. We're watching."

The Michigan chapter of the ACLU, the national civil liberties group that is also part of the new coalition, successfully sued Detroit over the CAID raid on behalf of Hellenberg and others. A



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federal judge, in a 2010 opinion, ruled that police did not have probable cause to seize their vehicles under state nuisance abatement laws.

Kary Moss, executive director of the ACLU of Michigan, said the non-profit has long advocated for civil asset forfeiture reform and believes that support from House Speaker Kevin Cotter may help the legislation move forward this session.

"The government has been able to seize people's property without ever having to prove a person committed a crime," she said. "There's just something wrong with this."

Other members of the new coalition include Americans for Tax Reform, the Center for American Progress, the Faith and Freedom Coalition, the Leadership Conference on Civil and Human Rights, and Right on Crime.

Michigan law enforcement officials did not actively fight or support the full package in the House, but their stance could hold significant sway in the state Senate, where a former sheriff chairs the Judiciary Committee.

Fix Forfeiture plans to actively engage the Michigan law enforcement community, according to Harris, who sees an opportunity to win their support, which she said would be a "groundbreaking" development.

"We really see a perfect storm there in Michigan," she said.

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Why armed drug cops took 'every belonging' from a Michigan soccer mom

**Christopher Ingraham /The Washington Post**

**June 13, 2015**

Annette Shattuck wasn't home when the masked men entered her house and ransacked it. But her 56-year-old mother was, clipping coupons and watching over Annette's four children under the age of 10, Shattuck recalled last week before the Michigan House of Representatives.

"After they breached my door, at gunpoint, with masks," she said, repeating what her family told her, "they proceeded to take every belonging in my house. And when I say every belonging, I mean every belonging." That included, she said, her husband's tools, the lawnmower and a bicycle. They took credit card statements, tax returns, and the public assistance card Shattuck used to help feed her family. They even took \$90 worth of birthday money out of her daughter's "pink bedroom," as it's listed in a summary of seized property compiled by the police.

"My children's artwork was on the floor with boot-prints on it," she says, recalling what she saw when she returned home. She testified that they hung her lingerie from the ceiling fans. The men took her vehicles, which she said included the car seats for the smaller children.



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The men who did this were officers of Michigan's St. Clair County Drug Task Force executing a search warrant on her home. Shattuck, you see, is a registered medical marijuana caregiver under Michigan's medical marijuana law. This allows her to grow a certain quantity of marijuana plants to distribute to a small number of medical marijuana patients.

The Task Force suspected she might be out of compliance, selling marijuana to people without a medical marijuana card. Shattuck initially faced six criminal charges related to marijuana possession and distribution, three of which have since been dismissed by a district court judge, according to court documents reviewed by The Washington Post. She is awaiting her day in court on the remaining charges.

St. Clair County Sheriff Tim Donnellon disputed elements of Shattuck's testimony in a phone interview, saying it was far less of a confrontation than Shattuck suggested in her testimony. "She's a liar, plain and simple. That's all I can tell you," he said. He says that the task force did not hang lingerie from the ceiling fans or stomp food on the floor. The Shattucks, he said, are "trying to further their cause, which at the base of it is the legalization of marijuana in the state of Michigan."

The seizure of Shattuck's belongings offers a window into the unsettled world of civil forfeiture and drug laws at a time when both are facing increased challenges. A number of media investigations over the past year, including by The Washington Post, have raised questions about whether local authorities are appropriately seizing -- and keeping -- the property of people who are never convicted, or in some cases never even charged, with a crime. Meanwhile, civil forfeiture has remained an important anti-narcotics tool for local and federal authorities, who are facing a changing drug policy landscape across the country.

In an interview, Shattuck, who has described herself as a "soccer mom," and her lawyer Michael Komorn rejected the sheriff's criticism. "He's never called me a liar up until this point that I've been aware of," she said. She stands by the testimony she gave to the Michigan House, and points to a district court transcript showing the judge harshly admonishing the prosecution for the wide net cast in seizing assets.

"Why would you keep several of the items that were stated here ... unless you just want to be nasty about it," Judge David Nicholson told the prosecuting attorney during a hearing. "I'm just saying that from a pure matter of acting like a decent human being, that those things that are not going to be necessary ought to be given back."

But the Shattucks say they haven't seen most of their belongings returned. Even if the charges against them are dropped completely, they'll still face a steep legal battle to get all their stuff, because it's been very difficult to get seized property back even when found to be innocent.

### **A debate over civil forfeiture**

Just ask Ginnifer Hency. Like Annette Shattuck, Hency is a self-described "soccer mom" and a registered medical marijuana caregiver. Her husband is a social worker. The Hency home was also raided last July by the same drug task force, according to Hency's testimony.



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"They took everything," Hency testified before the Michigan House: the TVs, the kids' phones, ladders. Hency was initially charged with two marijuana-related offenses. But the charges were recently dismissed by a judge, according to a district court document reviewed by The Post. She was elated. She drove to the county prosecutor's office to see about getting her belongings back.

But the county said they'd still be keeping all that: "The prosecutor came out to me and said, 'Well, I can still beat you in civil court,'" Hency told lawmakers last week.

In an interview, Michael Wendling, the St. Clair County prosecuting attorney, said the seizure of Hency's other belongings was justifiable under Michigan law. "When officers walk into a residence that has no income other than the sale of narcotics, and nothing of value except a brand new Xbox -- clearly those items might have been traded for drugs," he said.

Wendling also mentioned the ladder that Hency said was taken. "That ladder was used in the production of marijuana," he said. "The ladder to me was the same type of item as the scales, the grinder, the processing equipment the defendant was using. The ladder was just as much a part of this operation if she used it to reach the top of her plants."

In drug-related asset forfeiture cases, police have broad discretion in determining which goods to seize and which to leave behind.

Reconsidering the policy

Stories like these are why legislatures in Michigan -- and around the country -- are considering changes to their asset forfeiture programs or effectively ending them.

The statutes in Michigan are particularly susceptible to abuse, as Reason's Jacob Sullum notes. Law enforcement agencies there get to keep 100 percent of asset forfeiture proceeds, creating a strong incentive to take first and ask questions later. Michigan's laws earned it a D-, the lowest possible score, on an Institute for Justice state asset forfeiture report card released in 2010. The reform bills before Michigan would bump up the standard of evidence required to keep seized goods, provide stricter forfeiture reporting requirements for law enforcement agencies, and forbid seizing automobiles from people who possess less than one ounce of marijuana. Donnellon, the St. Clair County sheriff, isn't necessarily opposed to these changes, but he's worried about the extra paperwork they may bring. "If we're forced to do detailed reporting on every single thing we do, it could essentially paralyze us with paperwork," he said in an interview.

And Wendling, the county prosecutor, disagrees that innocent people are having their goods taken away. "I would dispute that generality that people are losing their property and not being convicted," he said in an interview. "It's very rare."

A 2015 Detroit Free Press investigation found, however, that "many" asset forfeiture victims in Michigan were never charged with a crime. And a Washington Post investigation last year found



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that since 2001, Michigan police seizures from people who hadn't been charged with a crime totaled \$47.7 million, \$35.1 million of which went into the state's coffers.

Critics of civil forfeiture laws say that the reform measures don't go nearly far enough but that they're a good first step toward preventing abuses of the system.

The St. Clair County Drug Task Force, the group that raided the homes of Annette Shattuck and Ginnifer Hency, reports that in 2014 it seized well over \$400,000 in cash and personal belongings from county residents.

"Had it not happened to me I never would have believed it could happen," Annette Shattuck said in an interview.

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State lawmakers consider changes in **forfeiture** laws

**L.L. Braiser/Detroit Free Press**

**May 19, 2015**

Michigan lawmakers are considering new legislation to reform the state's civil asset forfeiture laws, but some critics say the bills, if passed, are only the first step in stopping abuses by police agencies.

The current laws allow police to seize citizens' property if they suspect the property — including homes, vehicles and cash — was obtained through illegal activity. The police keep the property even when there is not enough evidence to charge the citizen with a crime.

Lee McGrath, legislative counsel for the Institute for Justice, a nonprofit public interest law firm that helps homeowners and business owners fight to get their property back, said there is a myth "that these forfeitures target big international criminal syndicates that traffic in hundreds of thousands of dollars in illegal drugs."

"I don't think the common seizure you see in Michigan is anything like that," said McGrath, whose organization is backing the legislation but feels civil forfeiture laws need to be eliminated. The Detroit Free Press detailed in February how state and local law enforcement agencies seized \$24.3 million in cash and property from citizens in 2013 under the state's forfeiture laws, even though in many cases there was not enough evidence to bring criminal charges. Some states, most recently New Mexico in April, have ended civil asset forfeitures, noting abuses.

Tuesday, the Michigan House judiciary committee heard testimony on five bills that would, among other things, require a higher level of evidence that a crime had been committed before a seizure could take place. Currently, law enforcement has to show the lowest level — a preponderance of evidence. Under the new bill, police would have to have "clear and convincing" evidence of criminal activity.



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The bills would also mandate that local agencies provide detailed reporting to the Michigan State Police about what they seized, whether there were any criminal charges brought or any convictions, and how the money was spent.

Currently, agencies report at will. In 2013, 286 of 691 police agencies submitted information to the MSP about their forfeitures, another 349 reported they did not participate in forfeiture activity, and 56 agencies didn't report at all.

In addition, the committee is considering a bill that would prohibit police from seizing cars in cases where a person is found to have less than an ounce of marijuana.

Currently law enforcement will seize cars if marijuana is found on the driver or in the car, arguing that the vehicle was used in illegal drug trafficking. Under the new proposal, under one ounce would be considered as "personal use" and could not be considered as a criminal enterprise.

The committee may take additional testimony, and is expected to vote on the package of bills within weeks. It would then go to the house and then the senate.

McGrath, who testified before the judiciary committee Tuesday, called the legislation "a solid first step toward the ultimate goal of ending civil forfeiture."

"Most of these items deal with reporting, which is a critical first step, because you need more details about how seizures are happening."

Better reporting, he said, will provide the Legislature with the context to change public policy once lawmakers see that police are not using the forfeiture laws to target big drug dealers. Minnesota, unlike Michigan, has strict reporting rules. The numbers show that police, in 95% of the cases, seize small amounts of cash, usually under \$6,000, and old cars.

The majority are older than 12 years. "That's the kind of information that can shape the debate," McGrath said.

The Mackinac Center, the conservative think tank, will hold a public forum Wednesday on civil asset forfeitures and proposed reforms, beginning at noon at the state Capitol. McGrath is a featured speaker, along with Dan Korobkin, deputy legal director of the ACLU of Michigan. The forum will be moderated by Jeff Irwin, a Democrat and state representative from Ann Arbor and co-sponsor of the new legislation.

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### **Crime fighting or questionable raids? A look at MI's asset forfeiture ...**

**Josh Sidorowicz/Fox 17**

**February 25, 2015**

VAN BUREN COUNTY, Mich. — Should cops have the right to raid your home or even seize it along with other property before you've ever been charged for a crime?



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In many cases, it's happening and is still happening across Michigan, bringing in millions of dollars worth of assets and cash to police agencies.

Wladyslaw "Wally" Kowalski lives in Bloomingdale, in rural Van Buren County. Kowalski, who has a Ph.D from Penn State University and a background in engineering and specializes in ultraviolet light technology, has been a medical marijuana card holder since 2007. He was growing the drug for medicinal use for himself and several designated patients at a home that's been in his family for decades.

The home was raided by the Michigan State Police's Southwestern Enforcement Team in September 2014 after an earlier helicopter flyover revealed the pot plants in his yard to police. "I realized they were raiding me for the marijuana," he said. "I went right up to them and said 'I'm a legitimate grower and I've got cards, this is a legitimate operation' but they didn't buy it."

A police incident report detailed preliminary investigations leading up to the September raid in which police contended there was no indication Kowalski's plants were part of a medical marijuana grow. Ultimately, police seized 55 marijuana plants and various other narcotic related items from the home.

In total the items taken, including a generator and agricultural pollen extractor, were valued at nearly \$1,700, according to the incident report.

Police cited Kowalski's grow area in his backyard not being in compliance with the state's medical marijuana act—with too many plants for the number of patient's cards he held in possession and for being within view for the roadway—as justification for forfeiture. Initially, Kowalski was only able to provide police with two patients' cards and his own, but he was later able to show police he was in possession of three patient cards and his own, enough to warrant 48 marijuana plants.

Kowalski asserts he believed he was doing everything in accordance with the law and was left dumbfounded by the raid.

"I've got men who look like terrorists going through my house, telling me to sign the search warrant and everything's going to be OK, so I sign the search warrant and they come in and take everything," he said.

Kowalski was later arrested and charged with two felonies of manufacturing and distributing marijuana. He could face up to seven years in prison if convicted.

"It's robbery, it's theft," said Daniel Grow, a Kalamazoo-based attorney representing Kowalski and several others in the state in similar situations. He said after the raids, Kowalski's bank accounts were frozen for several months and a lien was placed on the title to Kowalski's home.



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“To say you’re going to lose your home or have to buy your home back because you’ve been charged with a crime or only being investigated, the penalty doesn’t match the nature of the crime.”

A 2010 study from the Institute for Justice, a Virginia-based non-profit law firm, ranked Michigan among the worst states in the country when it comes to forfeiture laws.

The most recent asset forfeiture report available from Michigan State Police shows more than \$24 million in cash and assets were seized from Michiganders in 2013. Since 2000, more than \$250 million in forfeiture revenue has been collected.

The Southwestern Enforcement Team, or SWET, the division involved in Kowalski’s raid, seized more than \$370,000 in assets and cash in 2013. SWET is one of 28 multi-jurisdictional task forces under Michigan State Police.

The report states “the primary goal of asset forfeiture is to deter and punish drug criminals by taking away goods, property and money obtained through illegal activity,” and goes on to add the law is meant to save taxpayers money when asset forfeitures are used to support state and local law enforcement.

In 2013, thousands in cash and assets were seized by police agencies counties across West Michigan, according to data from Michigan State Police:

- Berrien County: Sheriff \$38,682, local agencies \$96,819
- Calhoun County: Sheriff \$56,295, local agencies \$177,792
- Kalamazoo County: Sheriff \$3,367, local agencies \$270,805
- Kent County: Sheriff \$666,897, local agencies \$427,664
- Van Buren County: Sheriff \$40,162, local agencies \$10,244

Several requests made by FOX 17 for an interview or statement from a representative with the Michigan State Police either on Kowalski’s case or forfeiture laws in general were not fulfilled as of Wednesday evening.

“They are just cops turned robbers,” Kowalski said. “It’s a travesty, they are abusing the medical marijuana law which is supposed to protect the growers and they are abusing the forfeiture law.”

Kowalski still has several court appearances ahead of him, while he and his attorney must prove his property was not purchased using illegal drug money, something both maintain is the case. However, under current civil asset forfeiture laws, even if Kowalski wins his case there might be no guarantee he’ll get his property back, according to Grow.

Grow said he’s confident they can win the case, hoping this case will set a precedent for others like it.

“If they found a medical marijuana grower that was not in compliance with some technical aspect of the law they should tell you,” he said. “Tell you to fix it, not charge you with a felony.” Several recent cases involving forfeiture laws have caught the attention of lawmakers at both the state and national level who are looking for reform.



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In January, U.S. Rep. Tim Walberg (R-Michigan) introduced the FAIR Act that among other things, would make it more difficult for police to seize property, and it'd require any money taken by police to be put into a general treasury and not come back to police.

Transparency has also been a focus area among proposed reform legislation. The 2014 MSP annual forfeiture report acknowledged shortcomings in record keeping and lack of reporting what was seized, when, how and why. There's been movement with reform bills requiring greater transparency at the state level too. Those efforts have since stalled.

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### Police seize property and cash in questionable raids

**L.L. Braiser/Detroit Free Press**

**February 23, 2015**

Police seized more than \$24 million in assets from Michiganders in 2013, under asset forfeiture laws. In many cases the citizens were never charged with a crime but lost their property anyway. Thomas Williams was alone that November morning in 2013 when police raided his rural St. Joseph County home, wearing black masks, camouflage and holding guns at their sides. They broke down his front door with a battering ram.

"We think you're dealing marijuana," they told Williams, a 72-year-old, retired carpenter and cancer patient who is disabled and carries a medical marijuana card.

When he protested, they handcuffed him and left him on the living room floor as they ransacked his home, emptying drawers, rummaging through closets and surveying his grow room, where he was nourishing his 12 personal marijuana plants as allowed by law. Some had recently begun to die, so he had cloned them and had new seedlings, although they were not yet planted. That, police insisted, put him over the limit.

They did not charge Williams with a crime, though.

Instead, they took his Dodge Journey, \$11,000 in cash from his home, his television, his cell phone, his shotgun and are attempting to take his Colon Township home. And they plan to keep the proceeds, auctioning off the property and putting the cash in police coffers.

More than a year later, he is still fighting to get his belongings back and to hang on to his house.

"I want to ask them, 'Why? Why me?' I gave them no reason to do this to me," said Williams, who says he also suffers from glaucoma, a damaged disc in his back, and COPD, a lung disorder. "I'm out here minding my own business, and just wanted to be left alone."

The seizure was allowed under Michigan's Civil Asset Forfeiture laws, which allow police to take property from citizens if they suspect a crime was committed, even when there is not enough evidence to charge them. Homeowners like Williams have to prove they did not purchase their property with proceeds from criminal activity and then sue to get the property back.



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Such laws are currently under attack nationwide by critics and legislators who say it is ripe for abuse. U.S. Attorney General Eric Holder announced earlier this month that he was tightening federal forfeiture laws to stop abuses. Michigan, with its own forfeiture laws, was ranked in a 2010 national study by a private, nonprofit group as among the worst in the nation for abuse.

"It's straight up theft," said Williams' Kalamazoo attorney, Dan Grow. "The forfeiture penalty does not match the crime. It's absurd. They grow an extra plant and suddenly they're subjected to forfeiture. A lot of my practice is made up of these kinds of cases — middle-aged, middle-income people who have never been in trouble before. It's all about the money."

Police targeted Williams because he had been on the board of directors of a "compassion club" in Battle Creek, an hour away, and his name had turned up in records in a raid there, Grow said, even though he had not been involved with the club since 2011. The seizure, Grow contends, was particularly vicious.

"He is disabled and lives alone. They took the man's cell phone and his car, and left him out there alone. He doesn't have a landline. He was stranded out there for three days until somebody stopped by."

The agency that conducted the raid, the Southwestern Enforcement Team, operated by the Michigan State Police, declined to discuss the case, except to say forfeitures are an important tool in fighting crime.

That team, which operates in southwest Michigan, seized \$376,612 in cash and assets that year.